

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:16 CR 412 RWS
)	
ARCHIE L. BUTLER,)	
)	
Defendant.)	

ORDER

Defendant Archie Butler is charged with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Butler was subjected to a Terry stop¹ by police officers investigating a “burglary in progress” call at an apartment complex. Butler was seen by the officers near the subject apartment and he generally matched the limited description of the burglary suspect. The officers approached Butler and engaged him in a voluntary conversation. They asked Butler if he had any weapons. Butler said no. Based on the nature of the call and the physical size of Butler the officers conducted a pat down search for safety reasons. The officers located a black handgun in Butler’s back pocket. The officers placed Butler in handcuffs for safety reasons and asked Butler if he was on probation or parole and if he was a convicted felon. Butler answered yes to both questions. The officers placed Butler under arrest for being a felon in possession

¹ Terry v. Ohio, 392 U.S. 1 (1968).

and read him his Miranda rights.

Butler filed a motion to suppress physical evidence (the gun) and a motion to suppress statements (including his admission that he was a convicted felon).

On November 21, 2016, United States Magistrate Judge Patricia L. Cohen held an evidentiary hearing of these motions and on December 16, 2017 she filed a report and recommendation that these motions be denied. On January 9, 2017, Butler filed objections to Judge Cohen's report.

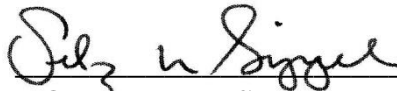
I have performed a de novo review of Butler's motions, the briefs in the record, and the transcript of the evidentiary hearing. I agree with Judge Cohen's recommendation that these motions should be denied for the reasons stated in her report.

Accordingly,

IT IS HEREBY ORDERED that I hereby adopt and incorporate Judge Patricia L. Cohen's report and recommendation dated December 16, 2016.

IT IS FURTHER ORDERED that Defendant Archie Butler's motion to suppress evidence [23] and his motion to suppress statements [24] are **DENIED**.

IT IS FURTHER ORDERED that the Jury Trial in this matter is set for **Monday, May 1, 2017 at 9:00 a.m.** in Courtroom 16-South.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 10th day of March, 2017.